

Docket No.: 345288016US  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Letters Patent of:  
Bhadkamkar et al.

Conf. No. 7205

Patent No.: 7,480,446

Art Unit: 2621

Issued: January 20, 2009

Examiner: M. N. Dunn

For: VARIABLE RATE VIDEO PLAYBACK WITH  
SYNCHRONIZED AUDIO

**APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION**  
**UNDER 37 C.F.R. § 1.705(D)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Applicant requests reconsideration of the patent term adjustment indicated in the Issue Notification of December 29, 2008.<sup>1</sup>

(1) Applicant is including the fee set forth in 37 C.F.R. § 1.18(e). Please charge any deficiencies or credit any overpayment to our Deposit Account No. 50-0665, under Order No. 345288016US from which the undersigned is authorized to draw.

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<sup>1</sup> Applicant's representative, Maurice Pirio, discussed issues relating to the filing of this Application with Mr. Kery Fries of the U.S.P.T.O. on November 20, 2008. Mr. Fries advised that applicant may wait until the time of issuance and file an application under 37 C.F.R. § 1.705(d), rather than file an application under 37 C.F.R. § 1.705(b). (See, also, "Decision Holding PTA Request in Abeyance Until After Issue Date," U.S. Patent Application No. 10/274,829, Jan. 30, 2007.)

(2) Statement of Facts

(i) Correct Patent Term Adjustment and Bases for Adjustment

The correct patent term adjustment is 1371 days. The PTO's calculated patent term adjustment is 891 days. Applicant is entitled to an additional 480 days of patent term adjustment.

The PTO failed to properly account for the delay under 35 U.S.C. § 154(b)(1)(A), referred to as the "A delay." The A delay is 891 days.

The PTO failed to properly account for the delay under 35 U.S.C. § 154(b)(1)(B), referred to as the "B delay." The B delay is 700 days.

The PTO failed to properly account for the overlap under 35 U.S.C. § 154(b)(2)(A) in the A delay and the B delay. The overlap is 220 days.

The PTO properly accounted for the reduction in patent term adjustment under 35 U.S.C. § 154(b)(2)(C). The reduction is 0 days.

The correct patent term adjustment is the sum of the A delay and the B delay minus the overlap and minus the reduction. Thus, the correct patent term adjustment is  $891+700-220-0$ , which is 1371 days.

(ii) Relevant Dates

A Delay		
Filing Date + 14 Months	4/20/2005	↓
First Office Action	9/28/2007	891
Reply to Office Action	12/28/2007	↓
Next Office Action	4/17/2008	↓
Reply to Office Action	7/17/2008	
Total		891

B Delay		
Filing Date + 3 Years	2/20/2007	↓
Issue Date	1/20/2009	700
Total		700

Overlap		
36-Month Date	2/20/2007	↓
First Office Action	9/28/07	220
Total		220

Reduction	
Total	0

(iii) Terminal Disclaimers

The patent is subject to three terminal disclaimers.

(iv) Failure to Engage in Reasonable Efforts

Applicant is not contesting the reduction in patent term adjustment of 0 days as accounted for by the PTO that are "deemed" to be a failure to engage in reasonable efforts under 37 C.F.R. § 1.704. There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the application under 37 C.F.R. § 1.704.

Dated: 1/23/09

Respectfully submitted,

By 

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